

FILED
 UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

07 SEP 21 AM 11:50

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jorge PINEDA-Portunio,

Defendant

 Magistrate Docket No. 07 MJ 2281
 CLERK, U.S. DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA


COMPLAINT FOR VIOLATION OF:

 Title 8, U.S.C., Section 1326
 Deported Alien Found in the
 United States

The undersigned complainant, being duly sworn, states:

On or about **September 20, 2007** within the Southern District of California, defendant, **Jorge PINEDA-Portunio**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT
 James Trombley
 Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 21st DAY OF SEPTEMBER, 2007


 Jan M. Adler
 UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:**Jorge PINEDA-Portunio****PROBABLE CAUSE STATEMENT**

On September 20, 2007, at approximately 3:35 am, Border Patrol Agent M. Estrada was performing line-watch operations near Tecate, California in an area known as the 126 Marker. This area is approximately 100 yards north of the United States/Mexico international border fence and five miles east of the Tecate, California Port of Entry. While looking for foot prints on the road Agent Estrada found a brush out left by suspected illegal immigrants by dragging a blanket to cover their tracks. Agent Estrada followed the sign of the blanket and found twelve individuals hidden beneath some thick brush 150 yards north from where the brush out originated. Agent Estrada approached the individuals and identified himself as a Border Patrol Agent and questioned each individual as to his or her citizenship and nationality. All individuals, including one later identified as the defendant **Jorge PINEDA-Portunio**, freely admitted to being citizens of Mexico without proper immigration documents to enter or remain in the United States legally. All 12 individuals were placed under arrest and transported back to the Tecate, California Processing Center.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on September 6, 2007 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights, which he stated he understood his rights and was willing to answer questions without having an attorney present. The defendant stated that he is a citizen and national of Mexico without any immigration documents allowing him to enter or remain in the United States legally.